

## Department of Planning and Budget

### 2006 Fiscal Impact Statement

**1. Bill Number** SB 534

<b>House of Origin</b>	<input type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
<b>Second House</b>	<input checked="" type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

**2. Patron** O'Brien, Jay

**3. Committee** Health, Welfare and Institutions

**4. Title** Adoption laws; creation of putative father registry

**5. Summary/Purpose:** As amended, this bill changes existing laws and policies governing adoption. This bill allows birth parents to make recommendations in agency placement adoptions. It also adds Article 4.1, which relates to close relative adoptions, Article 7, which relates to confidentiality in adoptions proceedings, and Article 8, which establishes a putative father registry, to the Code of Virginia. It further establishes when paternity is presumed. This legislation includes components of House Bills 727, 728, and 729, as amended.

Some of the most significant adoption policy changes as a result of this bill are as follows:

- deletes the requirement that an agency outside the Commonwealth comply with Virginia laws governing the execution of entrustment agreements;
- specifies that a birth father not married to the mother of the child may execute an entrustment agreement prior to the birth of the child;
- reduces the length of time birth parents have to revoke the entrustment agreement;
- allows consent to adoption by birth parents in fewer days;
- allows the court to waive certain requirements in a parental placement adoption when both parents fail without good cause to appear at the consent hearing;
- reduces the timeframe during which a birth parent may revoke their consent to adoption;
- reduces the length of time the petitioner must have known the person to be adopted when the person to be adopted is over the age of 18;
- removes the requirement that when the person to be adopted is over the age of 18, the petitioner as well as the person to be adopted must have been Virginia residents for at least two years prior to the filing of the adoption petition; and
- allows the approval of prospective adoptive parents convicted of felony possession or distribution of drugs that have had their civil rights restored by the Governor provided 10 years have elapsed following the conviction.

The legislation requires a licensed child placing agency or a local board of social services to consider the recommendations of birth parents when making an agency placement adoption and prohibits persons making recommendations from advertising or charging fees for services, except for fees charged by an attorney for legal representation. Birth parents must be given the opportunity to be represented by independent legal counsel as well as an

opportunity for counseling with a social worker. Prospective adoptive parents must be advised of their rights to be represented by independent legal counsel.

This bill also changes the adoption process for close relative adoptions. Close relative adoptions are those adoptions by grandparents, great grandparents, adult brothers or sisters, adult uncles or aunts, or adult great uncles and great aunts. This legislation simplifies the adoption process for close relative adoptions by removing some of the requirements of other adoptions.

With regards to adoptions confidentiality, this legislation allows a child-placing agency (agency) to divulge identifying information if the agency is of the opinion that such information would in the best interest of the child and the agency has the written consent of both the adoptive parent(s) and the birth parent(s) for adoptions finalized on or after July 1, 2006. Consent of the adoptive parent is not required when the adopted person is 21 years of age or older. Attorneys in adoption proceedings are prohibited from knowingly and intentionally revealing identifying information to the client.

The Department of Social Services (DSS) must also establish and maintain a putative father registry. A putative father registry is a registry of men who desire to be notified of a proceeding for adoption or termination of parental rights regarding a child they may have fathered. The department is required to give notice of a proceeding for adoption or termination of parental rights in the manner prescribed for service of process in a civil action, to search the registry in certain adoption cases, and to publicize the registry. This bill also establishes a non-reverting Putative Father Registry Fund. It adds an additional \$50 filing fee to each adoption petition filed, which is to be deposited into the Putative Father Registry Fund and used solely for the administration of the registry. Adoptions of children placed into Virginia from a foreign country in accordance with Section 63.2-1210 of the Code of Virginia are excluded from the additional \$50 filing fee. Failure to file with the registry is sufficient evidence for a judge to determine that the identity of the father is not reasonably ascertainable.

This bill further establishes a presumption of a man's paternity if: (i) he and the mother are married to each other and the child is born during the marriage; (ii) he and the mother are married to each other and the child is born within 300 days (10 months) after the marriage is terminated by death, annulment, or divorce; or (iii) before the birth of the child, he and the mother married each other. Presumption of a man's paternity may be rebutted by sufficient evidence. This legislation also changes the Code of Virginia governing who must consent to an adoption or enter into an entrustment agreement for termination of parental rights to include a birth mother, an acknowledged father, an adjudicated father, a presumed father, and a man who has filed with the putative father registry. Consent is not required of the following persons: a birth father who denies under oath and in writing the paternity of the child; any person whose parental rights have been terminated; the non-consenting party who fails to appear at the scheduled hearing after proper notice has been given; and a birth parent who, without just cause, has neither visited nor contacted the child for a period of six months.

## 6. Fiscal impact is preliminary

### Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2006-07	\$262,524	1.4	General Fund
2006-07	\$112,510	0.6	Nongeneral Funds
2007-08	\$101,769	1.4	General Fund
2007-08	\$135,265	0.6	Nongeneral Funds*
2008-09	\$101,769	1.4	General Fund
2008-09	\$135,265	0.6	Nongeneral Funds*
2009-10	\$101,769	1.4	General Fund
2009-10	\$135,265	0.6	Nongeneral Funds*
2010-11	\$101,769	1.4	General Fund
2010-11	\$135,265	0.6	Nongeneral Funds*
2011-12	\$101,769	1.4	General Fund
2011-12	\$135,265	0.6	Nongeneral Funds*

\* Accounts for revenue generated by the adoption petition filing fee

## 7. Budget amendment necessary: Yes, Item 338.

## 8. Fiscal implications: Adoption policy changes are communicated to all local departments via a policy transmittal, usually in the form of a broadcast. Regional specialists currently follow up with training on the policy changes. Additional costs associated with the adoption policy changes would be minimal and could be absorbed by the department. Because this legislation does not state that the licensed child placing agencies and local boards are required to provide independent legal counsel to birth parents, only that they are required to provide birth parents the opportunity to be represented by independent legal counsel, this portion of the bill would have no fiscal impact.

This bill also requires the revenue from the additional \$50 filing fee that is collected for each adoption petition to be used solely for the administration of a putative father registry. There are three major costs involved in establishing a putative father registry: (1) information systems development and ongoing operational costs; (2) publicity for the registry; and (3) staffing costs for the registry. Start-up costs will be needed to fund the first year of operation of the registry as there will not be sufficient collections for year one expenses. Ongoing costs in subsequent years of the registry can be supported in part by the revenue from the additional filing fee. In addition, adoption assistance payments are projected to increase because if a child is in the custody of a local department of social services, has special needs, and is adopted with an adoption assistance agreement, the additional filing fee would most likely be reimbursed to the adoptive parents.

A putative father registry would require the establishment of a new information system within the Department. To develop a separate automated tracking system for the registry, it is estimated that it would cost \$150,000 in year one. This includes the costs for business analysts, technical writers, and testers to develop the system as well as the underlying software. Ongoing systems costs for routine maintenance and upkeep are estimated at \$25,000 in future years.

This legislation requires the DSS to produce and distribute a pamphlet or other public information documents informing the public about the putative father registry including the procedures for voluntary acknowledgement of paternity; the consequences of acknowledgement and failure to acknowledge paternity; a description of the putative father registry including to whom and under what circumstances it applies, the time limits and responsibilities for filing, paternal rights, and associated responsibilities. Pamphlets and publications, which must include a detachable registration form, shall be made available at all local departments of social services, the Department of Health and their local offices, hospitals, medical clinics, libraries, schools, universities, and other providers of child related services upon request. The department is also required to provide general public service announcements about the registry to the public at large. To produce and distribute all information pamphlets regarding the registry, it is estimated to cost \$25,000. This includes the development, design, printing, and mailing of the pamphlets. To produce public service announcements for the general public for the putative father registry, it is estimated to cost an additional \$25,000. This includes the costs for press releases, posters, graphic design, promotional items, displays and market boards. The total cost of the pamphlets and public service announcements is estimated to be \$50,000.

It is estimated that additional staff including a program administration specialist II (pay band 5) as well as an administrative and office specialists III (pay band 3) would be required to operate the registry. The program administration specialist would help create and develop the pamphlets, help produce public service announcements, provide technical assistance and training to local agencies, and oversee the general administration of the registry. The office administration specialist would enter data into the registry, provide requests for publications as needed, perform searches in the registry, make vendor payments, and other clerical duties as needed. Using a mid-range salary of \$57,794 for pay band 5 and \$33,864 for pay band 3, salaries and benefits would total \$123,982. Funds to cover the routine operating costs of postage, office supplies, travel, telephone, rent, and etc. are estimated at \$7,570 per year. One-time costs of \$6,500 are included in the first year for furniture and equipment. Personnel, operating, and equipment costs are estimated at \$152,122 in the first year and \$139,122 each year thereafter.

In FY 2005, there were 2,057 adoption petitions finalized, of which 224 were inter-country adoptions. Inter-country adoptions would not be subject to the additional filing fee based on this legislation. As such, at \$50 per petition, \$91,650  $[(2,057 - 224) \times \$50]$  of additional revenue would be generated to be used solely for the administration of the registry. This additional revenue would be available in year two and thereafter for operations. Assuming 25% of these petition costs would be reimbursed to parents as non-recurring adoption assistance expenses, it is estimated that adoption subsidy expenses would increase by \$22,912 annually. All costs incurred for the putative father registry would be 70 percent general fund and 30 percent federal funds.

### Cost Summary

	FY 2007	FY 2008
Pamphlets and Brochures	\$ 25,000	\$ 25,000
Media Campaign	\$ 25,000	\$ 25,000
Salaries and Benefits	\$ 123,982	\$ 123,982
Operating Costs	\$ 15,140	\$ 15,140
One-time Equipment	\$ 13,000	\$ -
Software Development/Maintenance	\$ 150,000	\$ 25,000
Additional Adoption Subsidy Payments	\$ 22,912	\$ 22,912
Total Cost	\$ 375,034	\$ 237,034
General Fund	\$ 262,524	\$ 101,769
Putative Father Registry Revenue	\$ -	\$ 91,650
Federal	\$ 112,510	\$ 43,615

**9. Specific agency or political subdivisions affected:**

Department of Social Services

**10. Technical amendment necessary:** No

**11. Other comments:** None

**Date:** 02/16/06

**Document:** G:\2006 Fiscal Year\2006 Ga Session\Efis 2006\Sb534s1.Doc

cc: Secretary of Health and Human Resources